

# **CITY COUNCIL AGENDA**

**DECEMBER 4, 2007**

## **SYNOPSIS**

PETE CONSTANT  
FORREST WILLIAMS  
SAM LICCARDO  
KANSEN CHU  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON P. NGUYEN  
DAVID D CORTESI, VICE MAYOR  
JUDY CHIRCO  
NANCY PYLE

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.asp](http://www.sanjoseca.gov/clerk/agenda.asp). Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
**9:30 a.m.** - Closed Session, Call to Order in Council Chambers  
**Absent Council Members: Liccardo, Nguyen. (Excused)**  
  
**1:34 p.m.** - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Liccardo, Nguyen. (Excused)**  
  
**7:00 p.m.** - Public Hearings, Council Chambers, City Hall  
**Absent Council Members: Liccardo, Nguyen. (Excused)**
- **Invocation (Mayor)**  
**David Bird, Trinity Cathedral presented a poem by Robert Frost.**
- **Pledge of Allegiance**  
**Mayor Reed led the Pledge of Allegiance.**
- **Orders of the Day**  
**The Orders of the Day and the Amended Agenda were approved with Items 3.1(d) and (e) deferred to 12/11/07.**
- **Closed Session Report**  
**City Attorney Doyle disclosed the following Closed Session actions of December 4, 2007:**
  - A. **Authority to Pursue Appellate Review in a Litigation Case:**  
  
**Case Name: Calderon, et al. v. City of San José, et al.**  
  
**Adverse Party or parties: Ascension Calderon and Samuel Santana**  
  
**Substance of Litigation: Plaintiffs filed a civil lawsuit in State court that alleges false arrest, assault and battery, intentional infliction of emotional distress and violation of civil rights.**

*(Continued on the next page)*

## CLOSED SESSION REPORT (Cont'd.)

<b>Council Vote: Ayes:</b>	<b>Campos, Chirco, Chu, Constant, Cortese, Oliverio, Pyle, Williams; Reed.</b>
<b>Noes:</b>	<b>None.</b>
<b>Disqualified:</b>	<b>None.</b>
<b>Absent:</b>	<b>Liccardo, Nguyen. (Excused)</b>

### 1. CEREMONIAL ITEMS

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- 1.1** Presentation of commendations to Cora Tomalinas, Thelma Boac, Norma Doctor Sparks, and Genevieve Jopanda for each being recognized as one of the 100 most influential Filipino Women in the United States. (Chu/Oliverio/Nguyen/Cortese)

**Heard in the evening.**

**Mayor Reed, Vice Mayor Cortese and Council Members Chu and recognized and commended Cora Tomalinas, Thelma Boac, Norma Doctor Sparks, and Genevieve Jopanda for each being recognized as one of the 100 most influential Filipino Women in the United States. Council Member Nguyen was not present.**

- 1.2** Presentation of a commendation to Donald Connors for his dedication and volunteerism with San José youth programs. (Liccardo)

**Heard in the evening.**

**Mayor Reed, Vice Mayor Cortese and Council Member Campos recognized and commended Donald Connors for his dedication to the San José Youth Programs. Council Member Liccardo was not present.**

- 1.3** Presentation of a commendation to Andrew Hill High School for being named one of Newsweek magazine's "Best High Schools" and for playing a critical role in preparing San José students for college. (Nguyen)  
(Rules in-Lieu referral 11/20/07)

**Heard in the evening.**

**Mayor Reed recognized and commended Andrew Hill High School for being named one of Newsweek Magazine's "Best High Schools". Council Member Nguyen was not present.**

- 1.4** Presentation of a commendation recognizing the Rotary Club of San José for its commitment to the community by creating a place for children to congregate, learn and play together. (Parks, Recreation and Neighborhood Services)

**Mayor Reed and Director of Parks, Recreation and Neighborhood Services Albert Balagso recognized and commended the Rotary Club of San José for its commitment to the City of San José.**

# 1. CEREMONIAL ITEMS

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- 1.5 Presentation of the 2007 Playful City USA award. (Mayor/Chu/Parks, Recreation and Neighborhood Services)  
(Rules Committee referral 11/28/07)  
**Mayor Reed and Council Member Chu recognized and commended the Department of Parks, Recreation and Neighborhood Services for their dedication and hard work. KABOOM! recently presented the “2007 Playful City USA” award to the City of San José. Council Member Chu presented a “Mini Dodge Ball” to Director of Parks, Recreation and Neighborhood Services Albert Balagso.**
- 1.6 Presentation of a proclamation declaring December 1, 2007 as World AIDS Day. (Pyle)  
(Rules Committee referral 11/28/07)  
**Mayor Reed and Council Member Pyle recognized December 1, 2007 as “World AIDS Day” in the City of San José.**
- 1.7 Presentation of a commendation to A1 Jays Machining for their contributions to the economic vitality of the City of San José. (Mayor/Chu)  
(Orders of the Day)  
**Mayor Reed and Council Member Chu recognized and commended A1 Jays Machining for their contributions to the economic vitality of the City of San José.**

# 2. CONSENT CALENDAR

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## 2.1 Approval of Minutes.

**Recommendation:** Approval of minutes.

- (a) Regular minutes of September 25, 2007  
[Deferred from 11/20/07 – Item 2.1(c)]  
**Approved.**

## 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 28175 – Repealing Ordinance No. 27751 to terminate the Commercial Solid Waste and Recyclables Collection Franchise previously granted to Waste Management of California, Inc. dba Waste Management of Santa Clara County.  
**Ordinance No. 28175 adopted.**
- (b) ORD. NO. 28176 – Repealing Ordinance No. 27749 to terminate the Commercial Solid Waste and Recyclables Collection Franchise previously granted to USA Waste of California, Inc. dba Green Valley Disposal Company, Inc.  
**Ordinance No. 28176 adopted.**

## **2. CONSENT CALENDAR**

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### **2.2 Final adoption of ordinances (Cont'd.)**

- (c) ORD. NO. 28178 – Establishing a Neighborhoods Commission for the period from April 1, 2008 through March 31, 2010.

**Ordinance No. 28178 adopted.**

- (d) ORD. NO. 28179 – Amending Chapter 15.12 of the San José Municipal Code to modify local discharge limits for copper, nickel, selenium and total phenol, to eliminate limits for manganese, total toxic organics and xyelene; to add definitions, to conform Municipal Code requirements to Federal Pretreatment Program requirements, to expand reporting, record keeping and sampling requirements and to require Industrial Pretreatment Applications to be filed at least ninety days prior to discharge or the expiration of an existing permit.

**Ordinance No. 28179 adopted.**

### **2.3 Approval of actions related to the Master Plan for the Lower Silver Creek Trail.**

#### **Recommendation:**

- (a) Approval of the Lower Silver Creek Trail Master Plan.

**Approved.**

- (b) Adoption of a resolution incorporating the environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP07-106. Council Districts 3, 5 and 8. SNI: Five Wounds/Brookwood Terrace, Mayfair, East Valley/680 Communities. (Parks, Recreation and Neighborhood Services)

(Deferred from 10/23/07 – Item 2.12, 10/30/07 – Item 2.3 and 11/20/07 – Item 2.3)

**Resolution No. 74120 adopted.**

### **2.4 Naming of a new park.**

**Recommendation:** As recommended by the Parks and Recreation Commission, name a new park located at the northerly side of Samaritan Drive opposite Cooper Avenue as “Carolyn Norris Park”. (City Clerk)

**Approved.**

### **2.5 Request for an excused absence for Council Member Chirco.**

**Recommendation:** Request for an excused absence for Council Member Chirco from the Regular Meeting of the Rules and Open Government Committee on November 28, 2007 due to Personal Business. (Chirco)

(Rules in-Lieu referral 11/20/07)

**Excused.**

## 2. CONSENT CALENDAR

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### 2.6 Agreement for the installation of a public art project at the Mayfair Community Center.

**Recommendation:**

- (a) Approval of an agreement with Fernanda D’Agostino to fabricate and install artwork for the Mayfair Community Center in a total amount not to exceed \$195,400.

**Approved.**

- (b) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):
- (1) Establish an appropriation to the Office of Economic Development in the amount of \$10,000 for the Mayfair Community Center Public Art;
  - (2) Decrease the appropriation to the Office of Economic Development for the Plata Arroyo Skate Park Development Public Art project by \$8,000; and
  - (3) Decrease the appropriation to the Office of Economic Development for the Children of the Rainbow Park Renovation Public Art project by \$2,000.

CEQA: Exempt, File No. PP05-184. (Economic Development/City Manager’s Office)

**Ordinance No. 28180 adopted.**

### 2.7 Ordinance authorizing an Amnesty Program for specified accounts receivable.

**Recommendation:** Approval of an ordinance authorizing an amnesty program for specified accounts receivable. CEQA: Not a Project. (Finance)

**Ordinance No. 28181 passed for publication.**

### 2.8 Second Mortgage Program Commitment for San Antonio Place.

**Recommendation:** Adoption of a resolution approving a funding commitment of up to \$400,000 to provide second mortgages of up to \$50,000 each to moderate-income households purchasing townhomes in the San Antonio Place development, located on the corner of East San Antonio Street and King Road. CEQA: Not a Project. Council District 5. SNI: Mayfair. (Housing)

**Resolution No. 74128 adopted. (Correction noted: San Antonio Place is in Council District 5, not District 4, as previously reflected.)**

### 2.9 Sponsorship Agreement with Hill’s Pet Food Company for dog and cat food at the Animal Care Center.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a two-year sponsorship agreement with Hill’s Pet Food Company to receive dog and cat food at the cost of shipping in exchange for exclusive promotional opportunities to Hill’s Pet Food at the City of San José’s Animal Care Center. CEQA: Not a Project. (Parks, Recreation and Neighborhood Service)

**Resolution No. 74129 adopted.**

## 2. CONSENT CALENDAR

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### 2.10 Donation from the Rotary Club to purchase adaptive swings in City parks for special needs children.

#### **Recommendation:**

- (a) Adoption of a resolution accepting a donation in the amount of \$17,500 from the Rotary Club of San José to fund the purchase and installation of adaptive swings in City parks to facilitate equal play for special needs children.

**Resolution No. 74130 adopted.**

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Gift Trust Fund:

- (1) Increase the Earned Revenue estimate by \$17,500; and
  - (2) Establish a gift appropriation to the Parks, Recreation and Neighborhood Services Department for the Swings for Special Needs Children for \$17,500.

CEQA: Exempt, File No. PP07-244. (Parks, Recreation and Neighborhood Services/City Manager's Office)

**Ordinance No. 28182 adopted.**

**Resolution No. 74131 adopted.**

### 2.11 Proposed 2007-09 Spending Plan for the 2007 Edward Byrne Memorial Justice Assistance Grant Trust Fund.

#### **Recommendation:**

- (a) Approval of the proposed 2007-09 Spending Plan for the 2007 Edward Byrne Memorial Justice Assistance Grant Trust (JAG) Fund.

**Approved.**

- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Edward Byrne Memorial Justice Assistance Grant Trust Fund:

- (1) Increase the estimate for Earned Revenue in the amount of \$291,220; and
  - (2) Establish an appropriation to the Police Department for the Justice Assistance Grant 2007-09 Spending Plan in the amount of \$291,220.

CEQA: Not a Project. (Police/City Manager's Office)

**Ordinance No. 28183 adopted.**

**Resolution No. 74132 adopted.**



## 2. CONSENT CALENDAR

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### 2.12 Fiscal actions related to the Rose Garden Branch Library Project.

**Recommendation:**

- (a) Approval of a contingency budget increase in the amount of \$42,120 from \$370,000 to \$412,120 for the Rose Garden Branch Library project.
- (b) Approval of Contract Change Order No. 26 with Robert A. Bothman Construction, Inc. for the Rose Garden Branch Library Project in the amount of \$45,294, for a total contract amount of \$7,817,385, as a final payment that resolves all outstanding issues.

**Approved.**

- (c) Adoption of the following Appropriation Ordinance Amendments in the Branch Libraries Bond Projects Fund:
  - (1) Increase the appropriation to the Library Department for the Rose Garden Branch for \$21,000; and
  - (2) Decrease the Ending Fund Balance by \$21,000.

CEQA: Negative Declaration, File No. H02-065. Council District 6. (Public Works/City Manager's Office)

**Ordinance No. 28184 adopted.**

### 2.13 Establish a combination Rule 20A/In Lieu Fee (Rule 20B) Underground Utility District.

**Recommendation:** Adoption of a resolution to consider the establishment of a combination Rule 20A/In Lieu Fee (Rule 20B) Underground Utility District along Delmas Avenue from Santa Clara Street to Auzerais Avenue, Cahill Street from San Fernando Street to Santa Clara Street, San Fernando Street from Highway 87 to Cahill Street, Laurel Grove Lane from Cahill Light Rail Station to Bush Street, Cahill Park from Bush Street to Wilson Avenue, San Fernando Street from Wilson Avenue to 80' west of Wilson Street, Park Avenue from Highway 87 to Montgomery Street, and Auzerais Avenue from Bird Avenue to Highway 87, and setting a public hearing on January 15, 2008 at 1:30 p.m. CEQA: Exempt, File No. PP07-218. Council District 3. (Public Works)

**Resolution No. 74133 adopted.**

### 2.14 Amendment to an agreement for the use of a portion of the communications facility and radio tower on Coyote Peak.

**Recommendation:** Approval of a first amendment to a sublease agreement with American Tower, L.P., successor in interest to American Radio Systems, for the use by the City of portions of the communications facility and radio tower on Coyote Peak within the Santa Teresa County Park extending the term of the agreement by 120 months while modifying and adding to the equipment to be installed on the premises. CEQA: Mitigated Negative Declaration, File No. PP07-055. (Public Works)

**Approved.**

## 2. CONSENT CALENDAR

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### 2.15 Ordinance amending the delegation authority of the City Manager.

**Recommendation:** Approval of an ordinance amending Sections 4.04.10 and 4.04.020 of Chapter 4.04 of Title 4 of the San José Municipal Code in order to delegate authority to the City Manager to execute agreements and documents for the purchase or donation of real property, or grants of permanent easements to the City, and temporary construction easements where the City is grantor or grantee and which have terms of two years or less, where the compensation for the real property interest does not exceed one hundred thousand dollars (\$100,000). CEQA: Exempt. (Public Works)

**Ordinance No. 28185 passed for publication.**

### 2.16 Acceptance of the Grant Deed dedicating parkland from Almaden Family Housing Partners.

**Recommendation:** Adoption of a resolution authorizing the City Manager to execute and accept the Grant Deed dedicating parkland from Almaden Family Housing Partners, LP to the City of San José for future public park purposes. CEQA: Negative Declaration, File No. PDC98-11-089. Council District 7. (Public Works)

**Resolution No. 74134 adopted.**

### 2.17 Acceptance of a Grant Award for Internet Crimes Against Children.

**Recommendation:**

(a) Adoption of a resolution:

- (1) Accepting an Internet Crimes Against Children Grant award from the Governor's Office of Emergency Services (OES) in the amount of \$250,000; and
- (2) Authorizing the City Manager to execute the Grant Award Agreement.

**Resolution No. 74135 adopted.**

(b) Direction to staff to return to Council during the mid-year budget process to appropriate funds for this grant in the amount of \$250,000.

CEQA: Not a Project. (Police)

(Orders of the Day)

**Approved.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.1 Report of the Rules and Open Government Committee Mayor Reed, Chair

**Recommendation:** Approval of reports.

- (a) Report of the Rules and Open Government Committee of October 17, 2007  
(Deferred from 11/20/07 – Item 3.1)
- (b) Report of the Rules and Open Government Committee of October 24, 2007  
(Deferred from 11/20/07 – Item 3.2)
- (c) Report of the Rules and Open Government Committee of October 31, 2007  
(Deferred from 11/20/07 – Item 3.3)

**Approved.**

- (d) Report of the Rules and Open Government Committee of November 7, 2007  
(Deferred from 11/20/07 – Item 3.4)
- (e) Report of the Rules and Open Government Committee of November 14, 2007  
**Deferred to 12/11/07 per Orders of the Day.**

#### 3.2 Report of the Public Safety, Finance and Strategic Support Committee November 15, 2007 - Council Member Nguyen, Chair

- (a) Redevelopment Agency Monthly Financial Reports
  - (1) Financial Statements
  - (2) Capital Cost Report
  - (3) Cash Flow Projections

**The Committee accepted the Staff Reports.**

- (b) Public Safety Quarterly Report.
  - (1) Police
  - (2) Fire

**The Committee accepted the Staff Reports.**

- (c) Report on the Status of San José Prepared.  
**The Committee accepted the Staff Report.**

- (d) First Quarterly Reports on 2007-08 Performance Measurements for July – September 2007.

- (1) Public Safety
  - (2) Strategic Support

**The Committee accepted the Staff Reports.**

- (e) Risk Management Reorganization Update.  
**The Committee accepted the Staff Report.**

- (f) Report on the 2007-08 First Quarter Debt Report.  
**The Committee accepted the Staff Report.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Public Safety, Finance and Strategic Support Committee (Cont'd.) November 15, 2007 - Council Member Nguyen, Chair

- (g) Report on the 2007-08 First Quarter Investment Report.  
**The Committee accepted the Staff Report.**
- (h) Report on the 2007-08 First Quarter Revenue Collection Strategic Plan Report.  
**Deferred to December 20, 2007.**
- (i) Fiscal Year 2006-07 Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ended June 30, 2007.  
**The Committee accepted the Staff Report.**
- (j) Annual Procurement Update.  
**Deferred to February 21, 2008.**
- (k) External Auditor's Report on Single Audit and Management Letter on Internal Controls for Fiscal Year Ended December 2006.  
**Deferred to December 20, 2007.**
- (l) Team San José Reports.
  - (1) The FY 2005-06 and 2006-07 Annual Performance Audit for Team San José
  - (2) Independent Auditor's Report and Financial Statements on the San José Convention Center and Cultural Facilities for the Year Ended June 30, 2007.**The Committee accepted the Staff Report, including Staff comments.**
- (m) Report on Citywide Business Technology. (Information Technology)
  - (1) Enterprise Content Management (ICM)
  - (2) Geographical Information Systems (GIS)**The Committee accepted the Staff Reports.**
  - (3) Application Management and Data Automation (AMANDA) Expansion  
**Deferred to December 20, 2007.**
- (n) Oral Petitions  
**No oral petitions presented.**
- (o) Adjournment  
**The meeting was adjourned at 3:30 p.m.**

**The Public Safety, Finance and Strategic Support Committee Report and the Actions of November 15, 2007 were accepted.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.3 Council appointments to Retirement Boards.

**Recommendation:** Review employee election results and make appointments to the City's Retirement Boards:

- (a) Appoint Matt Loesch to the Federated City Employees Retirement System Board of Administration to serve a four year term ending November 30, 2011.
- (b) Appoint Mark Skeen to the Police and Fire Department Retirement Plan Board of Administration to serve a four year term ending November 30, 2011.

(City Clerk)

**Approved, with direction to Staff to brief the Rules and Open Government Committee on issues related to campaign policies and procedures for employee elections.**

#### 3.4 Agreement with the Association of Maintenance Supervisory Personnel.

**Recommendation:** Adoption of a resolution approving the terms of an agreement with the Association of Maintenance Supervisory Personnel and authorizing the City Manager to execute the agreement with a term of December 4, 2007 to June 27, 2009. CEQA: Not a Project. (City Manager's Office)

**Resolution No. 74136 adopted.**

#### 3.5 Revisions to the Council Policy on "Placement of Communication Facilities on City-Owned Property."

**Recommendation:** Adoption of a resolution approving revisions to Council Policy 7-10 "Placement of Communication Facilities on City-Owned Property" as adopted October 8, 1996 to include installation of telecommunications equipment on streetlight, traffic signal, and other poles owned by the City and in the public right of way. CEQA: Not a Project. (Public Works)

**Resolution No. 74137 adopted.**

#### 3.6 Actions related to the acquisition of a billboard located at 1000 South Bascom.

**Recommendation:** Adoption of a resolution determining that the public interest and necessity require the acquisition of a billboard owned by Clear Channel Outdoor ("CCO") located at 1000 South Bascom, San José, CA (APN Numbers 282-29-002, 003, and 004) and authorizing the City Attorney to file suit in eminent domain to acquire such property interest, to apply for an order for possession before judgment, and to prosecute the action to final judgment, and authorizing the deposit of money in court for possession of the property from the funds lawfully available. CEQA: Exempt, File No. PP05-0126. Council District 6. (Public Works)

**Deferred to 12/18/07 per District 6.**

### 3. STRATEGIC SUPPORT SERVICES

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#### 3.7 Revisions to the Council Policy regarding the “City’s Relocation Policy”.

**Recommendation:** Adoption of a resolution approving a revised and updated City Council Policy 7-4 regarding the City’s Relocation Policy, to be retitled “City Policy and Guidelines for Relocation Assistance under State and Federal Laws for Persons Displaced by City’s Capital Improvement Projects” in order to adopt federal and state regulations as the City’s guidelines for relocation benefits, and repealing Resolution Nos. 41149, 41786, and 44463 as the rules and regulations contained therein have been superseded in federal and state law. CEQA: Not a Project. (Public Works)

**Resolution No. 74138 adopted.**

### 4. COMMUNITY & ECONOMIC DEVELOPMENT

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#### 4.1 Report of the Community & Economic Development Committee

Council Member Pyle, Chair

No Report.

#### 4.2 Issuance of bonds, loan of bond proceeds and related documents for the Curtner Studios Project.

**Recommendation:** Adoption of a resolution:

- (a) Authorizing the issuance of tax-exempt multifamily housing revenue bonds designated as "City of San José Multifamily Housing Revenue Bonds (Curtner Studios Project), Series 2007C" in an aggregate principal amount not to exceed \$8,794,969 (the "Bonds");
- (b) Approving a loan of Bond proceeds to Curtner Studios, L.P., a California limited partnership, for financing the acquisition and rehabilitation of the Curtner Studios project located at 701 Curtner Avenue in San José;
- (c) Approving in substantially final form the Bonds, Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants; and
- (d) Authorizing the City Manager or other authorized officers to execute and, as appropriate, to negotiate, execute and deliver these bond documents and other related bond documents as necessary.

CEQA: Exempt, File No. PDC98-089. Council District 6. (Finance/Housing)

**Resolution No. 74139 adopted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.3 Public Hearings on various Historic Landmark Nominations.

**Recommendation:** Conduct Public Hearings and consider the adoption of resolutions approving the following Historic Landmark nominations for designation as Historic Landmarks and adoption of resolutions approving Historical Property Contracts related to each Historic Landmark:

- (a) Projects located at 301 S. 1<sup>st</sup> Street, City Landmark No. HL01-126 (Saratoga Capital, Inc., owner) as follows:
- (1) **MA07-012**. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the Sainte Claire Building. CEQA: Exempt. Council District 3. (Planning, Building and Code Enforcement)

**The Public Hearings were held.**

**Resolution No. 74140 adopted.**

- (b) Projects located at 201 S. 13<sup>th</sup> Street (Peter Smith, owner) as follows:
- (1) **HL07-163**. Historic Landmark Nomination for the Miller-Hubbard House as Historic Landmark No. 163.
  - (2) **MA07-008**. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property. CEQA: Exempt. Council District 3. SNI: University. (Planning, Building and Code Enforcement)
- Resolution Nos. 74141 and 74142 adopted.**

- (c) Projects located at 295 Sequoia Avenue (Lawrence Camuso, owner) as follows:
- (1) **HL07-164**. Historic Landmark Nomination for the Martin House as Historic Landmark No. 164.
  - (2) **MA07-009**. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property. CEQA: Exempt. Council District 6. (Planning, Building and Code Enforcement)
- Resolution Nos. 74143 and 74144 adopted.**

- (d) Projects located at 523 S. 6<sup>th</sup> Street (Sandra and Walter Soellner, owners) as follows:
- (1) **HL07-165**. Historic Landmark Nomination for the Field House as Historic Landmark No. 165.
  - (2) **MA07-010**. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property. CEQA: Exempt. Council District 3. SNI: University. (Planning, Building and Code Enforcement)
- Resolution Nos. 74145 and 74146 adopted.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.3 Public Hearings on various Historic Landmark Nominations (Cont'd.)

- (e) Projects located at 470 S.3<sup>rd</sup> Street (Steve Cohen, owner) as follows:
- (1) **HL07-166**. Historic Landmark Nomination for the Mojmir Apartment Building as Historic Landmark No. 166.
  - (2) **MA07-011**. Historical Property Contract (California Mills Act contract) between the City of San José and the owners of the subject property.  
CEQA: Exempt. Council District 3. SNI: University. (Planning, Building and Code Enforcement)  
**Resolution Nos. 74147 and 74148 adopted.**

### 4.4 2007-2008 Weed Abatement Report.

**Recommendation:** Adoption of a resolution:

- (a) Accepting the 2007-2008 Hazardous Vegetation Commencement Report compiled by the Santa Clara County Department of Agriculture and Resource Management; and
- (b) Declaring that those certain noxious or dangerous seasonal and recurrent weeds, growing or likely to be growing, and refuse, situated or likely to be situated, on those properties identified in the report are a nuisance; and
- (c) Directing the Santa Clara County Department of Agriculture and Resource Management to mail notices of a public hearing before the City Council, on January 15, 2008 at 1:30 p.m. on the report to property owners of affected real properties, pursuant to Chapter 9.12 of Title 9 of the San José Municipal Code and the Weed Abatement Agreement between the City of San José and the County of Santa Clara.

CEQA: Exempt, File No. PP06-196. (Planning, Building and Code Enforcement).

**Resolution No. 74149 adopted.**

### 4.5 Public Hearing on the reorganization/annexation of Riverside No. 51.

**Recommendation:** Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Riverside No. 51 on an approximately 3.4 gross acre County pocket consisting of an approximately 1800 foot long portion of Santa Teresa Boulevard right-of-way, 1100 feet southeast of Bayliss Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (No owners). CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)

**Heard in the evening.**

**The Public Hearing was held.**

**Resolution No. 74153 adopted.**



## **4. COMMUNITY & ECONOMIC DEVELOPMENT**

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### **4.6 Public Hearing on the reorganization/annexation of McKinley No. 110.**

**Recommendation:** Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as McKinley No. 110 on an approximately 3.5 gross acre County pocket consisting of one parcel on the northwest side of Summerside Drive between Warfield Way and Galveston Avenue, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Eugene D and Joann L Della Maggiore, Owner). CEQA: Resolution No. 65459. Council District 7. (Planning, Building and Code Enforcement)

**Heard in the evening.**

**The Public Hearing was held.**

**Resolution No. 74154 adopted.**

### **4.7 Public Hearing on the reorganization/annexation of Hillview No. 73.**

**Recommendation:** Conduct Public Hearing and consider the adoption of a resolution on the reorganization/annexation to the City of San José of territory designated as Hillview No. 73 on an approximately 8.55 gross acre County pocket consisting of 4 parcels on both sides of Mount Pleasant Road, east of Westview Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Multiple Owners). CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)

**Heard in the evening.**

**The Public Hearing was held.**

**Resolution No. 74155 adopted.**

## **5. NEIGHBORHOOD SERVICES**

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### **5.1 Report of the Neighborhood Services and Education Committee**

**Council Member Chirco, Chair**

**No Report.**

## 5. NEIGHBORHOOD SERVICES

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### 5.2 Agreement for the promotion and support of the J.R. Blackmore Police Activities League Stadium and Complex.

**Recommendation:**

- (a) Approval of an agreement with the Police Activities League, a California non-profit corporation (PAL Board) for the Promotion and Support of the J.R. Blackmore Police Activities League Stadium and Complex (“PAL Agreement”) for a term of 20 years, provides for operation of the Stadium and Complex by the City and provides that certain revenues from the Stadium and Complex shall be used for youth programs and facility improvements and such other terms as described in the memorandum.

**Approved.**

- (b) Adoption of a resolution authorizing the City Manager to approve sponsorship agreements for up to three-year terms at the PAL Stadium and Complex to assist PAL’s fundraising efforts.

**Resolution No. 74150 adopted.**

- (c) Adoption of a resolution establishing the schedule of field fees and charges for the Stadium and Complex.

CEQA: Not a Project. Council District 5. SNI: Mayfair. (City Manager’s Office/Parks, Recreation and Neighborhood Services/Police)

**Resolution No. 74151 adopted.**

**Staff directed to return in 6 months to the Rules and Open Government Committee with a general update.**

### 5.3 Master Plan for the new Fleming Park.

**Recommendation:** Approval of the master plan for the new Fleming Park. CEQA: Exempt, File No. PP07-237. Council District 5. (Parks, Recreation and Neighborhood Services)

**Approved, with the condition that on street parking is prohibited along the section of Fleming Avenue adjacent to the park.**

### 5.4 Parkland Dedication Ordinance and Park Impact Ordinance In-Lieu Fee Adjustments.

**Recommendation:** Public Hearing and adoption of a resolution setting forth the new Parkland Schedule of In-Lieu Fees charged pursuant to Chapters 14.25 (“Park Impact Ordinance”) and 19.38 (“Parkland Dedication Ordinance”) of the San José Municipal Code to reflect the 2006 Residential Land Value Study. CEQA: Resolution No. 65459. (Parks, Recreation and Neighborhood Services)

(Continued from 11/20/07 – Item 5.3)

**The Public Hearing was held.**

**Resolution No. 74152 adopted.**

## **6. TRANSPORTATION & AVIATION SERVICES**

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- 6.1 Report of the Transportation and Environment Committee**  
**Council Member Williams, Chair**  
**No Report.**

## **7. ENVIRONMENTAL & UTILITY SERVICES**

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- 7.1 Report on bids and approval to award contract for Norwood Pump Station Replacement.**

**Recommendation:**

- (a) Report on bids and award of contract for Norwood Pump Station Replacement to the low bidder, Anderson Pacific Engineering Construction, Inc., in an amount not to exceed \$1,191,125, and approve a project contingency in the amount of \$100,000.

**Approved.**

- (b) Adopt the following Appropriation Ordinance amendments in the Water Utility Capital Fund:

- (1) Increase the appropriation to the Environmental Services Department for the Norwood Pump Station Replacement project in the amount of \$300,000; and  
(2) Decrease the Ending Fund Balance by \$300,000.

**Ordinance No. 28186 adopted.**

- (c) Adopt the following Appropriation Ordinance amendments in the Major Facilities Fund:

- (1) Increase the appropriation to the Environmental Services Department for the Norwood Pump Station Replacement project in the amount of \$300,000; and  
(2) Decrease the Ending Fund Balance by \$300,000.

CEQA: Exempt, File No. PP07-136. Council District 8. (Environmental Services)

**Ordinance No. 28187 adopted.**

## **8. PUBLIC SAFETY SERVICES**

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## 9. JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 9.1 Status report on the North San José Neighborhoods Planning Taskforce.

#### **Recommendation:**

- (a) Acceptance of the status report on the North San José Neighborhoods Planning Taskforce.
- (b) Direction to staff to proceed with the implementation of the Taskforce Work Program.
- (c) Direction to staff to report on the results of the Taskforce Work Program to the City Council and Redevelopment Agency Board in February 2008.

CEQA: Not a Project. Council District 4. (City Manager's Office/Redevelopment Agency)

**Accepted.**

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9836	W/S Skylark Dr at western terminus of Hummingbird Dr	6	Skylark Investors, Inc.	1 Lot / 32 Units	MFA	Approve
9877	E/S of S. Buena Vista Ave, 260'N of Scott St	6	Casa Buena, LLC	1 Lot / 8 Units	SFA	Approve

- **Notice of City Engineer's Award of Construction Projects**  
**None.**

- **Open Forum**

- (1) **Armando Casadio voiced concerns about police brutality.**
- (2) **David Wall spoke in support of City employees and strike and in favor of Civil Service reform.**

- **Adjournment**

**The Council of the City of San José adjourned the afternoon session at 3:08 p.m.**

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearings at this time.

## 11. PUBLIC HEARINGS

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(Heard by the City Council at 7:00 p.m.)

### 11.1 Public Hearings on Consent Calendar.

#### **Recommendation:**

- (a) Consideration of an ordinance rezoning the real property located on the south side of Hillsdale Avenue approximately 600 feet east of Pearl Avenue (866 Hillsdale Avenue) from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow up to six single-family attached residences on a 0.45 gross acre site (Hamid Abtahi & Tom Ronning, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

PDC07-022 – District 6

(Continued from 11/20/07 – Item 11.2)

**Ordinance No. 28188 passed for publication.**

- (b) Consideration of an ordinance rezoning the real property located on the northeast corner of Berryessa Road and Lundy Avenue (1715 Berryessa Road) from CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District to allow a car wash use at an existing gas station on a 0.64 gross acre site (Thuong Van Lam et al, owners). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C06-134 - District 4

**Ordinance No. 28189 passed for publication.**

- (c) Consideration of an ordinance rezoning the real property located on the northwest corner of Orchard Parkway and Atmel Way from the IP(PD) – Planned Development Zoning District to the IP(PD) – Planned Development Zoning District to allow office/research and development uses and modifications to the development standards to change the height and setbacks to conform to the IP – Industrial Park Zoning District on a 16.35 gross acre site (Legacy Partners Commercial, Owner). CEQA: Resolution No. 72768 and Addenda thereto. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

PDC07-091 - District 4

**Continued to 12/11/07 per Administration.**

## 11. PUBLIC HEARINGS

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### 11.1 Public Hearings on Consent Calendar (Cont'd.)

- (d) Consideration of an ordinance rezoning the real property located on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive (380 N. White Road) from County to A(PD) Planned Development Zoning District to allow up to 7 single-family detached residences on a 0.98 gross acre site (Timothy Chen, Owner). CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).  
PDC07-041 - District 5

**Ordinance No. 28190 passed for publication.**

- (e) Consideration of an ordinance rezoning the real property located on the east side of South Winchester Boulevard, approximately 65 feet northerly of Williams Road (960 S Winchester Boulevard) from the R-1-5 Single Family Residence Zoning District to the CP – Commercial Pedestrian District on a 0.19 gross acre site (Ronnie Berry & Et Al, Trustee Owner). SNI: Winchester. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
C07-050 - District 6

**Ordinance No. 28191 passed for publication.**

- (f) Consideration of an ordinance rezoning the real property located on the southeast corner of Ewer Drive and Ross Avenue (4232 Ross Ave.) to A(PD) Planned Development Zoning District to allow the subdivision of one lot into two lots and to allow the construction of one new single-family detached residence with existing residence to remain on 0.25 gross acres (Arthur Bando, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).  
PDC07-040 - District 9

**Ordinance No. 28192 passed for publication.**

### 11.2 Ordinance rezoning an approximately 6.93 gross acre area on both sides of Rosemar Avenue.

**Recommendation:** Consideration of a director initiated rezoning ordinance rezoning an approximately 6.93 gross acre County island consisting of 25 parcels on both sides of Rosemar Avenue, between Juliet Park Drive and Fleming Avenue and the north side of Fleming Avenue between Rosemar Avenue and Marchant Court from unincorporated county to R-1-5 Single Family Residence Zoning District for single family residential purposes (Multiple Owners). CEQA: Resolution No. 65459. (Related Annexation Story No. 58). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

C06-106 - District 5

**Ordinance No. 28193 passed for publication.**

## 11. PUBLIC HEARINGS

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### 11.3 Ordinance rezoning an approximately 0.74 gross acre area on the southwest side of South White Road.

**Recommendation:** Consideration of a director initiated rezoning ordinance rezoning from unincorporated county to R-1-8 Single Family Residence District on an approximately 0.74 gross acre area consisting of 4 parcels located on the southwest side of South White Road, 400 feet southeast of East Hills Drive (Jesse and Olga Villarreal, Emilia Gonzales, and Alex and Gloria Banuelos; Owners). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. (Related Annexation Capitol No. 55). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C06-107 - District 5

**Ordinance No. 28194 passed for publication.**

### 11.4 Ordinance rezoning an approximately 0.27 gross acre area on the southwest side of South White Road.

**Recommendation:** Consideration of a director initiated rezoning ordinance rezoning from unincorporated county to R-1-8 Single Family Residence District on an approximately 0.27 gross acre area consisting of 2 parcels located on the southwest side of South White road, 600 feet southeast of East Hills Drive (Michael Sanders Jr. and Sr., and Isabel M. Hernandez; Owners). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. (Related Annexation Capitol No. 56). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C06-108 - District 5

**Ordinance No. 28195 passed for publication.**

### 11.5 Ordinance rezoning an approximately 34.1 gross acre area located between Pleasant Acres Drive and Ruby Avenue.

**Recommendation:** Consideration of a director initiated rezoning ordinance rezoning from unincorporated county to R-1-2 Single Family Residence District approximately 25.97 gross acres consisting of 30 parcels and rezoning from unincorporated county to R-1-RR Single Family Residence District approximately 8.08 gross acres consisting of 6 parcels, all located between Pleasant Acres Drive and Ruby Avenue, west of Murillo Avenue (Multiple Owners). CEQA: Resolution No. 65459. (Related Annexation Evergreen No. 200). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.

C06-127 - District 8

**Ordinance No. 28196 passed for publication.**

## 11. PUBLIC HEARINGS

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### 11.6 Consideration of an ordinance rezoning an approximately 2.50 gross acre area on the northeast corner of Ruby Avenue and Holderman Drive.

**Recommendation:** Consideration of a director initiated rezoning ordinance rezoning from County of Santa Clara to R-1-2 Single-Family Residence Zoning District on an approximately 2.50 gross acre County island consisting of 6 parcels on the northeast corner of Ruby Avenue and Holderman Drive (Multiple Owners). CEQA: Resolution No. 65459. (Related Annexation No. 201). Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).

C06-128 - District 8

**Ordinance No. 28197 passed for publication.**

- **Open Forum**

(1) Mark Trout expressed religious viewpoints.

- **Adjournment**

The Council of the City of San José adjourned at 7:25 p.m. in memory of Tanya C. Young, a long time resident of San José, who was an outstanding community leader and a wonderful example of positive leadership in her community.



## **8. JOINT REDEVELOPMENT AGENCY ITEM**

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**The Joint Redevelopment Agency Board convened at 3:10 p.m. to consider Items 8.1 and 8.2 in a Joint Session.**

### **8.1 Approval of amendments to Cooperation Agreements for the loan of Agency employees to the City.**

**Recommendation:** City Council and Redevelopment Agency Board approval of:

- (a) The first amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Senior Policy Advisor, Economic Development and Land Use by one year; and,
- (b) The first amendment to the Cooperation Agreement between the Redevelopment Agency and the City of San Jose, extending the term for the loan and employment of an Agency employee to the Office of the Mayor to serve as Schedule Coordinator by one year.

CEQA: Not a Project.

**Approved.**

### **8.2 Rejection of all bids for a construction contract for a parking lot for the GRP.**

**Recommendation:** Adoption of a resolution rejecting all bids for the construction of a parking lot for the Guadalupe River Park (GRP) with access from Santa Clara and St. John Streets. CEQA: Downtown Strategy 2000 EIR, Resolution No. 72767 and Addendum thereto. File No. PP07-223. **[MERGED]** (Deferred from 10/2/07, Item 8.3 et al. 11/6/07, Item 8.3)

**Redevelopment Agency Resolution No. 5800 adopted.**

**The Council of the City of San José and Redevelopment Agency Board adjourned at 3:11 p.m.**